IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1272 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SANJAYKUMAR SUVALAL JAYASWAL - Petitioner(s)
Versus
COLLECTOR AND ADDITIONAL SUPERINTENDENT OF STAMPS & 2 - Respondent(s)

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Appearance :
HL PATEL ADVOCATES for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1 - 2.
Ms. Nisha Parikh, Asstt.GOVERNMENT PLEADER for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 07/12/2007

ORAL JUDGMENT

1. This petition has been filed by the petitioner against the order passed by the Registrar

of Stamps and also against the order passed by respondent no.2-appellate authority who confirmed the order and dismissed the appeal only on the ground that the appeal is time barred and both these orders are under challenge in this petition. The petitioner has prayed for an order or direction to quash and set aside the orders Annexures 'B' and 'D' to this petition and further to refund the amount of the stamps in question as per the provisions of the said Act.

2. Heard the learned advocate for the petitioner and the learned AGP for the respondent-State.

3. The petitioner purchased non-judicial stamps on 24.10.2005. He applied for refund of the said stamps after deducting 10% amount as per provisions of section 51 [C] read with 47 of the Bombay Stamp Act, 1958.

4. In view of section 10 of the General Clauses Act, 1897, if the period of limitation should be

continued from the date of the order or from the date of the communication of the order which is to be completed within the stipulated period under the law and, if any holiday falls immediately after the date of completion of the limitation period, then the holiday is required to be included in the period of limitation.

5. In view of the above, in the opinion of this court, as the appeal filed by the petitioner is in time, the matter is required to be remanded to the Appellate Authority for deciding afresh on merits and in accordance with law and is remanded accordingly. Rule is made absolute to the aforesaid extent.

[M.D. SHAH, J.]

msp